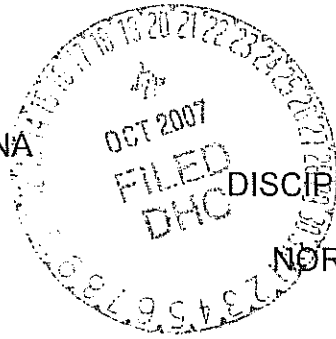


NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
07 DHC 25

THE NORTH CAROLINA STATE BAR,)
Plaintiff)

v.)

COMPLAINT

WILLIAM L. DURHAM, Attorney,)
Defendant)

Plaintiff, complaining of defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar (hereinafter "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, William L. Durham (hereinafter "Durham" or "Defendant"), was admitted to the North Carolina State Bar on August 12, 1972, and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Revised Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

Upon information and belief, the State Bar alleges:

3. During the times relevant herein, Durham actively engaged in the practice of law in the State of North Carolina and maintained a law office in Winston-Salem, Forsyth County, North Carolina.

4. During the times relevant herein, Durham maintained general operating and trust accounts as follows:

a. Wachovia Bank, account number ending in the digits 617 (hereinafter "trust account"); and

b. Wachovia Bank, account number ending in the digits 572 (hereinafter "operating account");

First Claim for Relief

5. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 4 above as if set out in full herein.

6. On or about April 16, 2004 Durham received funds totaling \$33,279.00 on behalf of his client John George.

7. Between April 16 and April 30, 2004 Durham transferred from the trust account to his operating account funds in the amount of \$9,500.00 relating to John George. These funds purportedly constituted Durham's attorney fees and/or other expenses relating to Mr. George's matter.

8. Durham disbursed the remaining \$23,779.00 to John George by check in the amount of \$20,983.00 on or about October 8, 2004 and by check in the amount of \$2,796.00 on or about December 21, 2004.

9. Between April 16 and October 8, 2004, the \$23,779.00 belonging to John George should have been maintained in Durham's trust account.

10. On June 9, 2004, Durham's trust account balance went below \$23,779.00 and remained below that amount until July 15, 2004.

11. Between June 9, 2004 and July 15, 2004, Durham made counter withdrawals from his trust account and corresponding counter deposits into his operating account on the dates and in the amounts as follows:

June 9, 2004	\$ 3,959.00
June 14, 2004	\$ 1,343.00
June 17, 2004	\$ 3,200.00
June 28, 2004	\$ 1,753.00

12. Durham provided to the North Carolina State Bar documents purportedly prepared by Durham on July 10, 2004, which documents purport to be the reconciliation of Durham's trust account bank balance to the balance of identified client funds held in trust for the period ending June 30, 2004 (hereinafter the "reconciliation report").

13. Durham's reconciliation report shows that client funds totaling \$25,758.07 should have been held in trust for the exclusive use and benefit of two clients as of June 30, 2004 but that the actual funds on deposit with the bank at that time totaled \$20,954.60.

14. Durham knew there were insufficient funds in his trust account for his clients, but took no steps to rectify the matter.

15. By knowingly transferring funds from his trust account to his operating account and thereby causing the funds in his trust account held for the exclusive use and benefit of John George to fall below the amount he was obligated to hold for Mr. George, Durham misappropriated funds belonging to John George.

THEREFORE, the State Bar alleges that Durham's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. §84-28(b)(2) in that Durham violated one or more of the Revised Rules of Professional Conduct in effect at the time of the actions as follows:

a. by misappropriating the funds belonging to his client John George, Durham used entrusted property to obtain personal benefit for some person(s) other than the legal or beneficial owner of that property in violation of Rule 1.15-2(j) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c); and

b. by knowing his trust account bank balance was \$20,954.60 at a time when he should have held \$25,758.07 for the use and benefit of his clients as of June 30, 2004, Durham failed to protect entrusted property in violation of Rule 1.15-2(a).

Second Claim for Relief

16. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 4 above as if set out in full herein.

17. Durham's practice consisted primarily of traffic cases and he received payments from clients that included Durham's attorney fee and funds for the purpose of paying court costs and/or fines related to their cases.

18. Between April 1, 2004 and April 29, 2005, Durham routinely deposited funds into his trust account without identifying the clients on whose behalf each deposit was made and without identifying the purpose for which the funds were being held.

19. Client funds deposited into Durham's trust account included funds paid by his clients for the purpose of paying court costs and/or fines related to their cases.

20. Between April 1, 2004 and April 29, 2005, Durham routinely transferred funds from his trust account to his operating account without

identifying to which client(s) each transfer into his operating account related and without specifying the purpose of the funds being transferred.

21. Between April 1, 2004 and April 29, 2005, Durham routinely wrote checks from his operating account to the Clerk of Court on behalf of client(s) without identifying on which client's or clients' behalf such payments were made.

22. For the trust account identified above, Durham did not retain appropriate client ledgers relating to his trust account for the period from April 1, 2004 through April 29, 2005.

23. Durham did not ensure that funds held by him in trust to pay costs and/or fines for individual clients were used for the benefit of those clients.

THEREFORE, the State Bar alleges that Durham's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. §84-28(b)(2) in that Durham violated one or more of the Revised Rules of Professional Conduct in effect at the time of the actions as follows:

a. by failing to identify the clients on whose behalf deposits were made into his trust account, by failing to identify the purpose for which the funds were held, by failing to retain appropriate client ledgers, and by failing to maintain an accurate and complete accounting of his trust account transactions, Durham failed to identify, hold and maintain entrusted property separate from the property of the lawyer in violation of Rule 1.15-2(a) and failed to maintain complete and accurate records of all entrusted property received by the lawyer in violation of Rule 1.15-3(a) and (f).

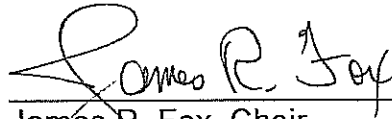
WHEREFORE, the State Bar prays that

1. Disciplinary action be taken against Defendant in accordance with N.C.G.S. §84-28 (c) and 27 N.C.A.C. 1B §.0114 as the evidence on hearing may warrant,

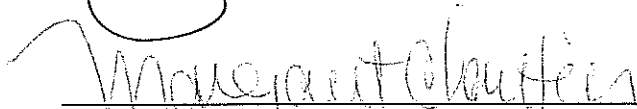
2. Defendant be taxed with the costs permitted by law in connection with this proceeding, and

3. For such other and further relief as is appropriate.

This the 17th day of October, 2007.



James R. Fox, Chair
Grievance Committee



Margaret Cloutier, Deputy Counsel
Attorney for Plaintiff
The North Carolina State Bar
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